

AMENDED IN ASSEMBLY JUNE 12, 2014

AMENDED IN SENATE APRIL 29, 2014

SENATE BILL

No. 1390

Introduced by Senator Correa

February 21, 2014

An act to add Chapter 4.6 (commencing with Section 31170) to Division 21 of the Public Resources Code, relating to the Santa Ana River Conservancy Program.

LEGISLATIVE COUNSEL'S DIGEST

SB 1390, as amended, Correa. Santa Ana River Conservancy Program.

Existing law establishes the State Coastal Conservancy with prescribed powers and responsibilities for implementing and administering various programs intended to preserve, protect, and restore the state's coastal areas.

This bill would establish the Santa Ana River Conservancy Program, to be administered by the conservancy, *to address the resource and recreational goals of the Santa Ana River region. The bill would authorize the conservancy to acquire specified lands within ½ mile, or greater as provided, on either side of the riverbed of the Santa Ana River interests and options in real property* and would prescribe the management, powers, and duties of the conservancy for purposes of the program. The bill would also create the Santa Ana River Conservancy Program Account in the State Coastal Conservancy Fund and would authorize the conservancy to expend moneys in the account, upon appropriation, for land acquisition, capital improvements, and support of the program's operations.

Existing law requires the conservancy, every 3 years, to prepare and submit to the Governor and to the Legislature a report describing progress that it made in achieving coastal conservancy objectives.

~~The bill would require the conservancy, by January 1, 2016, and annually thereafter, conservancy to submit a include information about the program in this report to the Governor and the Legislature on progress made to further the purposes of the program.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 4.6 (commencing with Section 31170) is added to Division 21 of the Public Resources Code, to read:

CHAPTER 4.6. SANTA ANA RIVER CONSERVANCY PROGRAM

~~Article 1. General Provisions and Definitions~~

~~31170. This chapter shall be known, and may be cited, as the The Santa Ana River Conservancy Program Act is hereby established, to be administered by the conservancy, to address the resource and recreational goals of the Santa Ana River region, as provided in this chapter.~~

~~31171. (a) The Legislature finds and declares all of the following:~~

~~(a) The Santa Ana River is the largest stream system in southern California, covering an area of about 2,700 square miles in parts of Orange, San Bernardino, Riverside, and Los Angeles Counties.~~

~~(b) The Santa Ana River region is home to one of the fastest growing populations in the nation, which is expected to grow from its current five million residents to ten million residents by 2050.~~

~~(c) Not all Orange County residents have equal access to green space. The communities with the worst access to parks lie along the river in north Orange County, with low-income levels and high concentrations of people of color.~~

~~(d) Despite vast areas of parkland in the region, many communities in San Bernardino and Riverside Counties are park poor, with less than three acres of green space per 1,000 residents.~~

1 This is particularly true in the communities that were built out
2 before the development boom of the past few decades. As more
3 working class families moved to the area in search of jobs, the
4 population in these older neighborhoods swelled but public
5 resources for parks and recreation were not invested proportionally
6 to the growth.

7 (e) Portions of the Santa Ana River are considered polluted by
8 the United States Environmental Protection Agency. Pollutants
9 include lead and copper from discarded vehicle brake pads, and
10 bacteria from leaking sewers and septic tanks. Pollutants travel
11 the length of the river, exposing nearby communities to harmful
12 chemicals and toxins.

13 (f) The Santa Ana River is an extraordinary natural resource of
14 statewide significance. The river has been subject to intense
15 development and is in need of restoration, conservation, and
16 enhancement.

17 (g) The ~~creation~~ *establishment* of the Santa Ana River
18 Conservancy Program will provide the state *with* the necessary
19 structure to plan *and implement* restoration and preservation
20 projects and recreation opportunities, and enhance the overall
21 condition of the Santa Ana River.

22 31172. For purposes of this chapter, the following terms have
23 the following meanings:

24 (a) ~~“Conservancy” means the State Coastal Conservancy.~~

25 (b) ~~“Control” means possession, direct or indirect, of the power
26 to direct or cause the direction of management and policies.~~

27 (c) ~~“Nonprofit organization” means a nonprofit public benefit
28 corporation that is formed pursuant to the Nonprofit Corporation
29 Law (Division 2 (commencing with Section 5000) of Title 1 of
30 the Corporations Code), qualified to do business in California, and
31 qualified under Section 501(c)(3) of Title 26 of the United States
32 Code, and that has among its primary purposes the preservation,
33 protection, or enhancement of land or water resources in their
34 natural, scenic, historical, agricultural, forested, or open-space
35 condition or use.~~

36 (d)

37 (a) “Program” means the Santa Ana River Conservancy
38 Program.

39 (e)

(b) “Program lands” means ~~lands owned or managed by the conservancy as part of the Santa Ana River Conservancy Program interests in real property acquired, managed, or subject to a project under this chapter.~~

(f)

(c) ~~“Territory”~~ “Santa Ana River region” means those lands that are located within one-half mile, ~~or greater distance pursuant to paragraph (2) of subdivision (a) of Section 31173;~~ on either side of the riverbed of the Santa Ana River, or any of its tributaries, from its headwaters near the San Geronio Wilderness Area to the Pacific Ocean at the Santa Ana River Mouth Beach in Huntington Beach *and adjacent watersheds and lands as described in paragraph (2) of subdivision (a) of Section 31175.*

Article 2. ~~The Santa Ana River Conservancy Program~~

31173. ~~The Santa Ana River Conservancy Program is established pursuant to this chapter, to be administered by the conservancy, to address the resource and recreational goals of the Santa Ana River corridor as identified in this chapter. The program shall have all of purposes:~~ *The conservancy may undertake projects and award grants and loans to public agencies and nonprofit organizations to help achieve all of the following goals of the program:*

(a) ~~(1) To acquire lands that are located within one-half mile on either side of the riverbed of the Santa Ana River, to manage program lands, and to provide recreational~~ *Recreational* opportunities, open space, trails, wildlife habitat and species restoration, *enhancement*, and protection, wetland restoration and protection, agricultural land restoration and protection, protection and maintenance of the quality of the waters in the Santa Ana River for all beneficial uses, ~~lands for related educational uses within the area use,~~ and natural floodwater conveyance.

~~(2) Lands that are located more than one-half mile on either side of the riverbed of the Santa Ana River may be acquired if the acquisition is expressly authorized in a written agreement by and between the conservancy and the local government whose jurisdiction contains the affected lands.~~

~~(b) To provide for the public’s enjoyment, and to enhance the~~ *Public access and enjoyment, and enhancement of* recreational

1 and educational experience on program lands in a manner
2 consistent with the protection of land and natural resources, and
3 economic resources in the area.

4 31174. ~~The conservancy, in~~ *In administering the program, the*
5 *conservancy shall, consistent with the purposes of this chapter, do*
6 *all of the following:*

7 ~~(a) Establish policies and priorities regarding the Santa Ana~~
8 ~~River, and conduct necessary planning activities, in accordance~~
9 ~~with the purposes set forth in Section 31173.~~

10 *(a) Create an advisory group to offer advice, expertise, support,*
11 *or service to the conservancy, without compensation.*

12 *(b) Prepare a Santa Ana River Parkway and Open Space Plan*
13 *that shall, at minimum, do all of the following:*

14 *(1) Determine the policies and priorities for conserving the*
15 *Santa Ana River and its watershed.*

16 *(2) Identify underused, existing public open spaces and*
17 *recommend ways to provide better public use and enjoyment in*
18 *those areas.*

19 *(3) Identify and prioritize additional low-impact recreational*
20 *and open-space needs, including additional or upgraded facilities*
21 *and parks that may be necessary or desirable.*

22 ~~(b)~~

23 *(c) Give priority to river-related projects that create expanded*
24 *opportunities for recreation, greening, aesthetic improvement, and*
25 *wildlife habitat along the corridor of the river and in parts of the*
26 *river channel that can be improved for the purposes set forth in*
27 *Section 31173 without infringing on water quality, water supply,*
28 *and necessary flood control.*

29 ~~(e) Approve conservancy-funded projects that advance the~~
30 ~~purposes set forth in Section 31173.~~

31 ~~(d) Prepare a Santa Ana River Parkway and Open Space Plan,~~
32 ~~that shall accomplish, at a minimum, all of the following:~~

33 ~~(1) Determine the policies and priorities for conserving the Santa~~
34 ~~Ana River and its watershed in accordance with the purposes of~~
35 ~~the program set forth in Section 31173.~~

36 ~~(2) Identify underused, existing public open spaces and~~
37 ~~recommend ways to provide better public use and enjoyment in~~
38 ~~those areas. However, the conservancy shall not manage, regulate,~~
39 ~~or control the use of any land owned or leased by another public~~

1 agency, except as provided pursuant to a written agreement with
2 that public agency.

3 (3) ~~Identify and prioritize additional low-impact recreational~~
4 ~~and open-space needs, including additional or upgraded facilities~~
5 ~~and parks that may be necessary or desirable.~~

6 (d) *Implement the program in conformance with all related*
7 *general and specific plans and zoning regulations of local agencies*
8 *within the Santa Ana River region.*

9 (e) *Provide for program lands and facilities to be operated and*
10 *maintained in accordance the purpose of this chapter.*

11 31175. (a) ~~The conservancy shall create an advisory group~~
12 ~~and may create ad hoc panels. The conservancy shall determine~~
13 ~~the size and composition of membership, candidate qualifications,~~
14 ~~and the selection process for an advisory group or ad hoc panel.~~

15 (b) ~~Members of the advisory group or ad hoc panels may offer~~
16 ~~advice, expertise, support, or service to the conservancy, without~~
17 ~~compensation.~~

18 (c) ~~The conservancy may establish operational guidelines for~~
19 ~~the advisory group or ad hoc panels.~~

20 (d) ~~A donation of funds secured through activities of the~~
21 ~~advisory group or ad hoc panels shall be deposited in the Santa~~
22 ~~Ana River Conservancy Program Account.~~

23 (e) ~~All reports, statements, or advice issued by the advisory~~
24 ~~group or ad hoc panels may be received and filed, implemented,~~
25 ~~or rejected by the conservancy.~~

26 27 Article 3. Powers and Duties 28

29 31176. (a) ~~The conservancy shall manage, operate, administer,~~
30 ~~and maintain the program lands and facilities in accordance with~~
31 ~~the purposes set forth in Section 31173.~~

32 (b) ~~The conservancy may adopt regulations governing public~~
33 ~~use of program lands and facilities and may provide for the~~
34 ~~enforcement of those regulations.~~

35 (c) ~~The conservancy may fix and collect fees for the use of any~~
36 ~~land owned or controlled, or for any service provided, by the~~
37 ~~conservancy. The amount of the fees shall not exceed the~~
38 ~~reasonable cost of maintaining and operating the land or providing~~
39 ~~the services rendered by the conservancy.~~

1 ~~31177. (a) The conservancy may acquire real property or an~~
2 ~~interest in real property pursuant to the Property Acquisition Law~~
3 ~~(Part 11 (commencing with Section 15850) of Division 3 of Title~~
4 ~~2 of the Government Code) within the territory from willing sellers~~
5 ~~and at a price that shall not to exceed fair market value, upon a~~
6 ~~finding that the acquisition is consistent with the purposes of the~~
7 ~~program as set forth in Section 31173. The conservancy may~~
8 ~~acquire the property itself or may coordinate the acquisition~~
9 ~~through other public agencies or nonprofit organizations that have~~
10 ~~the authority to acquire property and that have available funding~~
11 ~~or land to exchange. The conservancy may hold a remainder~~
12 ~~interest in property in those instances in which an owner desires~~
13 ~~to sell the property and retain a life estate, and arrange land~~
14 ~~exchanges, consistent with the purposes set forth in Section 31173.~~
15 ~~The overall objective of the land acquisition shall be to assist in~~
16 ~~accomplishing land transactions that are mutually beneficial to the~~
17 ~~landowner and the conservancy, and that meet the program's~~
18 ~~purposes.~~

19 ~~(b) To the extent not in conflict with another law, the~~
20 ~~conservancy may exercise the right of first refusal for surplus~~
21 ~~public agency property located within the territory for the purposes~~
22 ~~of the program, as set forth in Section 31173, subject to the~~
23 ~~conditions and provisions of the adopted Santa Ana River Parkway~~
24 ~~and Open Space Plan. The program shall conform to all relevant~~
25 ~~general and specific plans and zoning regulations of local agencies~~
26 ~~within the territory.~~

27 ~~(c) Prior to entering into an agreement to acquire an interest in~~
28 ~~real property, or to lease, rent, sell, exchange, or transfer real~~
29 ~~property or an interest therein or an option acquired under this~~
30 ~~chapter, within the territory for open space or conservation~~
31 ~~purposes, the conservancy shall provide 30 days' written notice~~
32 ~~to the legislative body of the affected local agency.~~

33 ~~(d) The conservancy may apply for grants from any source to~~
34 ~~be used for the purposes of this chapter. The proceeds of the grants~~
35 ~~shall be deposited in the Santa Ana River Conservancy Program~~
36 ~~Account, as specified in Section 31181.~~

37 ~~31178. (a) The conservancy shall have, and may exercise, all~~
38 ~~rights and powers, expressed or implied, necessary to carry out~~
39 ~~the purposes of this chapter, except as otherwise provided.~~

40 ~~(b) The conservancy shall not levy a tax.~~

1 ~~(e) The conservancy shall not regulate land use, except on lands~~
2 ~~it owns, manages, or controls.~~

3 ~~(d) The conservancy does not have the power of eminent~~
4 ~~domain.~~

5 ~~(e) The conservancy shall be subject to all laws, regulations,~~
6 ~~and general and specific plans of the legislative body of the local~~
7 ~~agency that has jurisdiction in the area in which the conservancy~~
8 ~~proposes to take action.~~

9 ~~31179. For purposes of this chapter, the conservancy may do~~
10 ~~all of the following:~~

11 ~~(a) Sue and be sued.~~

12 ~~(b) Enter into contracts with a public agency, private entity, or~~
13 ~~person necessary for the proper discharge of the conservancy's~~
14 ~~duties, and enter into a joint powers agreement with a public~~
15 ~~agency, in furtherance of the purposes set forth in Section 31173.~~

16 ~~(c) Lease, rent, sell, exchange, or transfer real property or an~~
17 ~~interest in real property or an option acquired under this chapter~~
18 ~~to a local public agency, state agency, federal agency, nonprofit~~
19 ~~organization, individual, or other entity pursuant to terms and~~
20 ~~conditions approved by the conservancy for management purposes;~~
21 ~~in accordance with the purposes set forth in Section 31173.~~

22 ~~(d) Initiate, negotiate, and participate in an agreement for the~~
23 ~~management of program lands by a local public agency, state~~
24 ~~agency, federal agency, nonprofit organization, individual, or other~~
25 ~~entity, and initiate, negotiate, and participate in an agreement for~~
26 ~~the management of land under the ownership or control of those~~
27 ~~entities by the conservancy, in accordance with the purposes set~~
28 ~~forth in Section 31173.~~

29 ~~(e) Enter into an agreement with a public agency, private entity,~~
30 ~~or person necessary for the proper discharge of the conservancy's~~
31 ~~duties for the purposes set forth in Section 31173.~~

32 ~~(f) Recruit and coordinate volunteers and experts to conduct~~
33 ~~interpretive and recreational programs and assist with construction~~
34 ~~projects and the maintenance of parkway facilities. To the extent~~
35 ~~feasible, in carrying out the purposes of this chapter, the~~
36 ~~conservancy shall utilize the services of the California Conservation~~
37 ~~Corps and Community Conservation Corps, as defined in Section~~
38 ~~14507.5, and if the California Conservation Corps or Community~~
39 ~~Conservation Corps are not available, any other nonprofit~~

1 organization that the conservancy determines has relevant and
2 demonstrated capacity and expertise.

3 (g) Undertake, within program lands, site improvement projects;
4 regulate public access, and revegetate and rehabilitate degraded
5 areas, in consultation with any other public agency with appropriate
6 jurisdiction and expertise, in accordance with the purposes set
7 forth in Section 31173. The conservancy may also, within program
8 lands, upgrade deteriorating facilities and construct new facilities
9 as needed for outdoor recreation, nature appreciation and
10 interpretation, historic and cultural preservation, and natural
11 resources protection. The conservancy may undertake those
12 projects by itself or in conjunction with another local agency;
13 however, the conservancy shall provide overall coordination of
14 those projects by setting priorities for the projects and by ensuring
15 a uniform approach to projects. The conservancy may undertake
16 those projects after 30 days' written notice to the legislative body
17 of the local agency that has jurisdiction in the area in which the
18 conservancy proposes to undertake that activity.

19 31180. (a) The conservancy may award grants or interest-free
20 loans to local public and state agencies for purposes of this chapter.

21 (b) The conservancy may award grants to nonprofit
22 organizations for the acquisition of real property or interests in
23 real property, within the territory, which shall be subject to all of
24 the following conditions:

25 (1) The purchase price of an interest in land acquired by the
26 nonprofit organization shall not exceed fair market value as
27 established by an appraisal approved by the conservancy.

28 (2) The conservancy approves the terms under which the interest
29 in land is acquired.

30 (3) The interest in land acquired pursuant to a grant from the
31 conservancy shall not be used as security for a debt incurred by
32 the nonprofit organization unless the conservancy approves the
33 transaction.

34 (4) The transfer of land acquired pursuant to a grant shall be
35 subject to the approval of the conservancy and the execution of an
36 agreement between the conservancy and the transferee sufficient
37 to protect the interests of the state.

38 (5) The state shall have a right of entry and power of termination
39 in and over all interests in real property acquired with state funds;

1 that may be exercised if an essential term or condition of the grant
2 is violated.

3 ~~(6) If the existence of the nonprofit organization is terminated,~~
4 ~~title to all interests in real property acquired with state funds shall~~
5 ~~immediately vest in the state, except that, prior to that termination,~~
6 ~~another public agency or nonprofit organization may receive title~~
7 ~~to all or a portion of that interest in real property, by recording its~~
8 ~~acceptance of title, together with the conservancy's approval, in~~
9 ~~writing.~~

10 ~~(e) A deed or other instrument of conveyance whereby real~~
11 ~~property is acquired by a nonprofit organization pursuant to this~~
12 ~~section shall be recorded and shall set forth the executory interest~~
13 ~~or right of entry on the part of the state.~~

14 *31175. In carrying out the purposes of this chapter, and without*
15 *limiting the express or implied powers of the conservancy in*
16 *implementing other provisions of this division, the conservancy*
17 *shall have, and may exercise, all necessary rights and powers,*
18 *expressed or implied, except as otherwise provided in this chapter.*
19 *Without limitation, the conservancy may do all of the following:*

20 *(a) (1) Acquire interests and options in real property and make*
21 *acquisition grants for these purposes.*

22 *(2) With respect to real property acquisitions by the conservancy*
23 *of watersheds and lands that are within the Santa Ana River region*
24 *but not within one-half mile on either side of the riverbed of the*
25 *Santa Ana River, the conservancy shall provide to the city or county*
26 *with geographic jurisdiction over the affected real property 30*
27 *days' written notice of the conservancy's intent, unless the city or*
28 *county agrees to accept less notice in a given case.*

29 *(b) Exercise a right of first refusal, to the extent not in conflict*
30 *with another law, for surplus public agency property located within*
31 *the Santa Ana River region, consistent with the Santa Ana River*
32 *Parkway and Open Space Plan, adopted pursuant to subdivision*
33 *(b) of Section 31174.*

34 *(c) Lease, rent, sell, exchange, or transfer interests in real*
35 *property.*

36 *(d) (1) Undertake or fund projects to implement site*
37 *improvements, upgrade deteriorating facilities or construct new*
38 *facilities for outdoor recreation, public access, nature appreciation*
39 *and interpretation; historic and cultural preservation; or*

1 *protection, restoration, or enhancement of natural resources and*
2 *habitat.*

3 *(2) If the conservancy intends to undertake a project directly,*
4 *the conservancy shall provide 30 days' written notice to the city*
5 *or county with geographic jurisdiction over the affected real*
6 *property, unless the city or county agrees to accept less notice in*
7 *a given case.*

8 *(e) Provide for the management of program lands.*

9 *(f) Fix and collect fees for the use of any land owned or*
10 *controlled, or for any service provided, by the conservancy. The*
11 *amount of the fees shall not exceed the reasonable cost of*
12 *maintaining and operating the land or providing the services*
13 *rendered by the conservancy.*

14 *(g) The conservancy may apply for and accept grants, gifts,*
15 *donations of money and property, subventions, rents, royalties,*
16 *and other assistance from public and private sources. These funds*
17 *shall be deposited in the Santa Ana River Conservancy Program*
18 *Account, as specified in Section 31178, for use in furthering the*
19 *program.*

20 *(h) Recruit and coordinate volunteers and experts to conduct*
21 *interpretive and recreational programs, and assist with*
22 *construction projects and the maintenance of facilities.*

23 *(i) Enter into contracts and joint powers agreements.*

24 *(j) Sue and be sued.*

25 *31176. (a) Notwithstanding Section 31175, the conservancy*
26 *is subject to all laws, regulations, and general and specific plans*
27 *of the legislative body of the city or county with geographic*
28 *jurisdiction over the area in which the conservancy proposes to*
29 *take an action.*

30 *(b) Notwithstanding Section 31175, the conservancy shall not*
31 *do any of the following:*

32 *(1) Exercise the power of eminent domain in implementing this*
33 *chapter.*

34 *(2) Manage, regulate, or control the use of any land owned or*
35 *leased by another public agency, except as provided pursuant to*
36 *a written agreement with that public agency.*

37 *(3) Levy a tax.*

38 *(4) Take an action that interferes, conflicts with, impedes,*
39 *adversely impacts or prevents the planning and implementation*
40 *of transportation projects and programs contained in the regional*

1 *transportation plan, approved and maintained, from time to time,*
2 *by the Southern California Association of Governments.*

3 (5) *Act to affect any water right or water-resource facility in*
4 *the Santa Ana River region without the consent of the affected*
5 *party.*

6 31177. *To the extent feasible, in carrying out the purposes of*
7 *this chapter, the conservancy shall utilize the services of the*
8 *California Conservation Corps and Community Conservation*
9 *Corps, as defined in Section 14507.5.*

10 ~~31181.~~

11 31178. (a) The Santa Ana River Conservancy Program
12 Account is hereby created in the State Coastal Conservancy Fund.
13 Moneys in the account shall *accrue interest and* be available, upon
14 appropriation, for the purposes of this chapter.

15 (b) ~~The fee~~ *All revenue and all other, including fee* revenue
16 received pursuant to this chapter, shall be deposited in the account.

17 (c) The conservancy shall administer funds appropriated to it
18 for the program and may expend those funds for capital
19 improvements, land acquisition, and support of the program's
20 ~~operations, in accordance with the purposes set forth in Section~~
21 ~~31173 operations.~~ The conservancy may also accept revenue;
22 money, grants, goods, or services contributed to it by a public
23 agency, private entity, or person and, upon receipt, may use the
24 ~~revenue,~~ money, grants, goods, or services for capital
25 improvements, land acquisitions, and support of the program's
26 operations, ~~in accordance with the purposes set forth in Section~~
27 ~~31173 for purposes of this chapter.~~

28 ~~31182. (a) On or before January 1, 2016, and, notwithstanding~~
29 ~~Section 10231.5 of the Government Code, on or before January 1~~
30 ~~annually thereafter, the conservancy shall submit a report to the~~
31 ~~Governor and the Legislature on progress made to further the~~
32 ~~purposes of this chapter. The report shall include, but is not limited~~
33 ~~to, a list of projects undertaken, grants and loans acquired and~~
34 ~~awarded, a schedule of prioritized projects for the next year, and~~
35 ~~identification of future funding sources.~~

36 (b) ~~A report submitted to the Legislature pursuant to subdivision~~
37 ~~(a) shall be submitted in compliance with Section 9795 of the~~
38 ~~Government Code.~~

1 31179. *The conservancy shall include information about the*
2 *program in its report to the Governor and Legislature pursuant*
3 *to Section 31108.*

O